

REMARKS/DISCUSSION OF ISSUES

By this Amendment, Applicant cancels claims 1, 4, 9 and 12 without disclaimer of the underlying subject matter or prejudice against future prosecution. Applicant also amends claims 3 and 11 to be in independent form without any change of scope. Accordingly, claims 3, 6-8, 11, 14, 17 and 18 are pending in the application.

Reexamination and reconsideration are respectfully requested in view of the following Remarks.

STATEMENT OF SUBSTANCE OF EXAMINER INTERVIEW

The undersigned attorney thanks Examiner Yuen for the courtesy of two brief telephonic discussions regarding this application on 4 & 5 November 2009.

On 4 November 2009, the undersigned attorney telephoned Examiner Yuen to discuss this patent application. The undersigned attorney explained to Examiner Yuen why it is believed that the Amendment dated 6 October 2009 did not change the scope of the claims 3 and 11, but simply eliminated redundant recitations of collecting quality of service data by the NAs for data streams associated with a telephone call having the telephone number as a source or destination and transmitted through the communication lines, and providing quality of service information by the NAs to the NTC based on the collected quality of service data. The undersigned attorney explained why he believed that the presented claims were clearer than they would be if all of the language of the base claims 1 and 9 were simply copied into claims 3 and 11. The undersigned attorney explained that he would be willing to make any other changes to the claims that Examiner Yuen could suggest in order to satisfy Examiner Yuen that the claims had not been changed in scope.

Examiner Yuen explained to the undersigned attorney that he really did not have any authority to do anything with this application without approval by his supervisor SPE Ricky Ngo, who was not in the office. The undersigned attorney asked Examiner Yuen to please consult about this with his supervisor and to call the undersigned attorney back by the next day so that this matter could be resolved. The

undersigned attorney explained that if no other proposal was agreed to by Examiner Yuen, then the undersigned attorney would be forced to file an amendment that simply copied *verbatim* all of the language of the base claims 1 and 9 into claims 3 and 11, even though this would make the claims less readable and clear – simply to put the claims in condition for allowance as indicated in the FINAL Office Action of 5 August 2009 and foreclose the possibility of having entry of Applicant's amendment denied yet again in a FINAL Office Action.

On 5 November 2009, Examiner Yuen explained that SPE Ricky Ngo was in meetings all day and did not have time to address this case. The undersigned attorney thanked Examiner Yuen for his time, and indicated that he would file this response which simply copies *verbatim* all of the language of the base claims 1 and 9 into claims 3 and 11.

CLAIM OBJECTIONS

The FINAL Office Action objected to claims 3, 6-8, 11, 14, 17 and 18 because of the phrases "to try" and "trying to."

In the Amendment filed on 6 October 2009, the undersigned attorney explained the reasons why these objections were being traversed, which reasons are restated for the record below.

In the Advisory Action dated 21 October 2009, it was stated that claims 7, 9, 17 and 18 are allowed, and no claim objections are listed. So it is believed that the arguments have indeed overcome the claim objections. **In the event that this understanding is incorrect, the Examiner is respectfully requested to contact the undersigned attorney to address this issue.**

Applicant respectfully submits that the phrases in claims 3, 7, 11 and 17 recite exactly what is intended and are indeed positive features of the claims. In particular, in claim 7 for example, each NA monitors call control information on a corresponding communication line in accordance with a received telephone number to try to identify a data stream associated with a telephone call having the telephone number as a

source or destination. A given NA absolutely does monitor a communication line, and it absolutely **tries to** identify the data stream, but in fact it may not **actually** identify the data stream for various reasons, including as an example, that another NA may identify the data stream first and then the NTC may transmit a message to the NA to cause the NA to stop trying to identify the data stream – as recited in claim 7.

A description of, and support for, these claim features is provided for example in paragraph [0034], lines 5-10 on page 8 of the specification, and in step 102 of FIG. 2.

Applicant respectfully submits that “trying to” positively recites features of the claims. Indeed, a very quick search revealed hundreds of presumably-valid U.S. patents with claims that recite “trying to” perform some operation, and literally thousands of other claims that recite “attempting to” perform some operation. Surely all of these claims in issued patents are not somehow defective?

Therefore, Applicant respectfully requests that the claim objections be withdrawn.

PRIOR ART

The FINAL Office Action states that claims 7, 8, 17 and 18 are allowed.

The FINAL Office Action also states that claims 3, 6 and 11 and 14 would be allowable if rewritten in independent form including all features of their respective base claims and any intervening claims.

By this Amendment, Applicant amends claims 3 and 11 to be in independent form, including all features of their respective base claims. So all of the pending claims are now believed to be allowable.

If the Examiner has any question about this, then **the Examiner is respectfully invited please to contact the undersigned attorney at the telephone number below to discuss this so that this application can be efficiently processed and allowed to proceed to issue.**

CONCLUSION

In view of the foregoing explanations, Applicant respectfully requests that the Examiner reconsider and reexamine the present application, allow claims 3, 6-8, 11, 14, 17 and 18 and pass the application to issue. In the event that there are any outstanding matters remaining in the present application, the Examiner is invited to contact Kenneth D. Springer (Reg. No. 39,843) at (571) 283.0720 to discuss these matters.

Respectfully submitted,

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